

LOCAL LAW 6 OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK,
REPEALING CHAPTER 179 OF THE CODE OF THE CITY OF KINGSTON, AND
REPLACING CHAPTER 179, BUILDINGS, VACANT AS ATTACHED

Sponsored By: Laws & Rules Committee: Aldermen: Eckert,
Scott-Childress, Carey, Mills, Brown

WHEREAS, it is the desire of the City of Kingston to repeal the current Chapter 179 of the Code and replacing Chapter 179 Buildings, Vacant as attached

NOW, THEREFORE, BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, AS FOLLOWS:

SECTION-1. That the Common Council of the City of Kingston repeals the current Chapter 179 of the Code of the City of Kingston, New York, and replaces it as follows:

Section 179-1. Legislative findings and intent

A. The Common Council of the City of Kingston, Ulster County, New York, recognizes that there is a rising number of properties within the City that have become vacant or abandoned as the result of the mortgage foreclosure process under New York State law or for other reasons. The Common Council recognizes that certain buildings, both residential and commercial, have remained abandoned, vacant or boarded up for long periods of time, some for many years. As such, these buildings and the properties upon which they are constructed can become unsightly and unsafe and have a negative effect on their surroundings and upon the community in general. The purpose of this chapter is to establish a program for identifying and registering abandoned and vacant buildings and properties; to determine the responsibility of the owners or mortgagees of these properties; to set forth the process for securing, maintaining and rehabilitating these properties and to require the registration of these properties with the Building Official/Code Enforcement Officer of the City of Kingston.

B. The Common Council of the City of Kingston intends that the provisions of this chapter are to prevent properties that have been abandoned and/or vacant from becoming dangerous, blighted, overgrown, susceptible to vandalism and otherwise nuisances to the public in general and specifically to surrounding property owners. The Common Council recognizes that properties involved in the mortgage foreclosure process in particular are left vacant and/or abandoned and could breed nuisance and criminal activity for months and after years. Accordingly, the Common Council believes that the provisions of this chapter is in the best interests of the public health, safety.

Section 179-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Abandoned Building or Property

A building which is vacant and not properly maintained as set forth in Section 179-5(a)

Building Official/Code Enforcement Officer/Inspector

duly authorized representative of the City of Kingston, Ulster County, New York, holding the position of Building Official, Deputy Building Official, Code Enforcement Officer, Building or Fire Inspector, or a duly authorized representative of the City of Kingston Fire Department, Building Safety Division.

Foreclosure

The legal process by which any parcel, tract, lot or other defined area of real property, including the improvements located thereon, placed as security for a real estate loan, is sought to be sold by the lender/mortgagee to satisfy the debt if the borrower/mortgagor defaults. This definition shall include all processed, activities, and actions by whatever name associated with the described process.

Local Agent

The agent designated by the owner or mortgagee upon registration as required by this chapter.

Mortgage

The creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

Notice of Default

A recorded notice that a default has occurred under a mortgage and that the mortgagee intends to proceed with a foreclosure sale.

Owner

Owner or owners of record on the assessment rolls of the Office of the Assessor of the City of Kingston; those identified as owner or owners on a vacant building registration form; a mortgagee in possession; a mortgagor in possession; a receiver or assignee of rents; an executor, trustee, or other person, firm, entity or corporation in control of the property or premises; persons or entities may have a joint and several obligations for compliance with the provisions of this chapter

Securing

Any measures that assist in making the property inaccessible to unauthorized persons as set forth in section 179-5 (a) below

Vacant Building or Property

A building or property or portion of same which is unoccupied for greater than 90 days.

Section 179-3. Registration

A.

Within 10 days of the filing of a list pendens and/or an action to foreclose upon a mortgage or similar security instrument, all mortgagees must register with the Building Official/Code Enforcement Officer of the City of Kingston on forms provided by said official all property in foreclosure within the City of Kingston. For properties for which a lis pendens and/or action for foreclosure upon a mortgage or a similar security instrument has been instituted prior to the effective date of this chapter and which has not yet been registered pursuant to this chapter, all mortgagees must register such properties within 60 days of the effective date of this chapter.

B.

Mortgagees must designate and retain a local individual or local agent or property management company as the local agent responsible for the security and maintenance of the property. Owners of property that do not reside in the City of Kingston must provide a name, address and contact information of a local agent with whom the owner has entered into a contract or agreement for property management.

C.

All owners of vacant or abandoned properties shall register with the Building Official/Code Enforcement Officer of the City of Kingston not later than 10 days after any Building in the City becomes an abandoned or vacant building and not later than 20 days after being notified by the Building Official/Code Enforcement Officer of the City of Kingston of the requirement to register. The Building Official/Code Enforcement Officer may identify vacant and/or abandoned buildings through his/her routine inspection process as well as through notification by residents, neighbors, neighborhood groups or other community groups that a building may be vacant and/or abandoned and eligible for inclusion on the required registry. Registration by owners shall be submitted on forms provided by the Building Official/Code Enforcement Officer of the City of Kingston.

D.

All owners and mortgagees must supply the following information to the Building Official/Code Enforcement Officer of the City of Kingston.

(1)

A description of the premises, including the property address as well as the section, Block and lot number of the property as set forth in the tax records of the City of Kingston located in the Office of the Assessor of the City of Kingston.

(2)

The names and addresses of the owner or owners, or mortgagee or mortgagees

(3)

Whether or not the owner or owners, mortgagee or mortgagees reside in the City of Kingston, the name and address for the owner, owners, mortgagee, or mortgagees, mailing address, telephone number, local agent's name, mailing address, telephone number, e-mail address for the owner, owners, mortgagee or mortgagees. Mailing addresses may not be a post office box but must be an actual street address where the owner, owners, mortgagee, mortgagees reside or do business.

(4)

The name, street address, telephone number and e-mail address of a natural person 21 years of age or older designated by the owner, owners, mortgagee, mortgagees as the authorized agent for receiving notices of Code violations and/or receiving process in any Court proceeding or administrative enforcement proceeding on behalf of such owner, owners, mortgagee or mortgagees in connection with the enforcement of any applicable code, ordinance, local law, regulation or statute. The agent for service of process must maintain an office or reside in Ulster County, New York.

(5)

The name, street address, telephone number and e-mail address of the firm or individual responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property must maintain an office or reside within Ulster County, New York, and shall be available by telephone or in person on a twenty-four hour per day, seven days per week basis.

(6)

A statement or plan as to what will be done to secure the structure and property so that it will not become open to the general public.

(7)

The status of water, sewer, natural gas and electric utilities, winterization of pipes at the Structure and property.

Section 179-4 Notices

A.

By designating an authorized agent as set forth above under the provisions of this chapter, the owner and/or mortgagee consents to receive any and all notices of Code violations concerning the registered abandoned or vacant property and all process in any Court proceeding or administrative enforcement proceeding brought to enforce Code provisions concerning the registered building or property by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the owner's designation for the purpose of this section until the owner notifies the Building Official/Code Enforcement Officer of the City of Kingston in writing of a change of authorization or until the owner files a new annual registration statement.

B.

Any owner who fails to register a vacant or abandoned property under the provisions of this chapter shall further be deemed to consent to receive, by posting at the building and by regular mail at their most recent address of record, any and all notices of Code violation and all processing of administrative or legal proceedings brought to enforce Code provisions or other laws or regulations concerning the structure or property.

Section 179-5. Obligation of owners and/or mortgagees

The owner or mortgagee of any structures that become vacant or abandoned and any person designated as an agent or responsible for maintaining such structure or vacant property shall within 30 days of the structure becoming abandoned or vacant or 30 days of the owner or mortgagee taking title to the property, whether or not the deed for said property has been recorded with the Ulster County Clerk.

A. All vacant real property shall at all times be properly maintained. A vacant building or structure shall be considered property maintained if:

i. It has all doors and windows and other openings weather-tight and secured against entry by the general public as well as animals.

ii. All roof and roof flashings shall be sound and tight such that no rain will penetrate the structure and must allow for appropriate drainage so as to prevent deterioration of the interior walls or other interior portions of the building. No temporary measures shall be permitted such as tarps, canvas, plastic, boards, etc. Temporary boarding of windows may be permitted upon application and consent by the Building Official of the City of Kingston. The Building Official shall have the discretion to determine how long boarding may be permitted.

iii. The building must be maintained in good repair, be structurally sound and free from rubbish, garbage, and other debris.

iv. Structured members of the building shall be capable of bearing both live and dead loads and the foundation walls likewise shall be capable of supporting an appropriate load.

v. The exterior of the structure shall be free of loose or rotten materials as well as holes. Any exposed metal, wood or other surface shall be protected from the element by appropriate weather coating materials (paint or similar treatment).

vi. Any balconies, canopies, signs, metal awnings, stairways, fire escapes or other overhanging extensions shall be in good repair, appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall also be protected from the element against rust or decay by appropriate application of paint or similar weather coating.

vii. Any accessories or appurtenant structures, including but not limited to garages, sheds, and other storage facilities, shall meet the same standards.

viii. All bushes must be trimmed so as to provide an unobstructed view of the front of the house from the public roadway.

ix. Cleaning of sidewalks and gutters pursuant to Section 355-20 of the Kingston City Code.

x. Property maintained in accordance with Chapter 3 of the NYS Property Maintenance Code of New York State.

xi. All combustibles must be removed from the interior of all buildings and the exterior of the property.

xii. Smoke and carbon monoxide detectors are installed and maintained in operable condition at all times.

xiii. The Building Official/Code Enforcement Officer of the City of Kingston is provided with proof of inspection of the premises by the agent or responsible party at least every 30 days after the abandonment commences.

xiv. The grounds of the structure, including yards, fences, sidewalks, walks and driveways, are well maintained and kept free from trash or debris.

B. In addition to the requirements set forth in Section A above, in the case of an abandoned building:

1. The owner and/or mortgagee shall post a sign affixed to the structure with a name, address and telephone number of the owner and/or mortgagee and the owner and/or mortgagees authorized agent for the purposes of service of process and the name, address and telephone number of the entity responsible for the maintenance of the property. The sign shall be at least 18 inches by 24 inches in dimension and shall include the words "To Report Problems with this Building/Property Call and/or e-mail" and shall be placed in a location where it is clearly legible from the nearest public street or sidewalk, whichever is nearer.

ii. Maintain the building in a secured and closed condition, keep the grounds in a clean and well maintained condition and insure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

Section 179-6. Inspections

The Building Official/Code Enforcement Officer, fire inspector and/or Police Department shall have the authority to inspect properties subject to this statute for compliance with same and to issue citations for any violations.

Section 179-7. Certification of Abandonment

Upon the Building Official/Code Enforcement Officer or his/her designee determining a property has been abandoned, he/she shall cause a certification of abandonment to be filed with the Building Department's records, and such certification shall be served upon the owner of the premises either personally or by posting a copy of the certification in a conspicuous place on the property and by mailing a copy by certified mail to the owner(s) last known address.

A. Upon the Building Official/Code Enforcement Officer filing a certification of abandonment, the Building Official/Code Enforcement Officer, Police Department and/or Fire Inspector may, without further notice to the owner, take necessary steps to ensure the property and/or dwelling is properly maintained pursuant to this chapter. costs incurred under this section shall be paid out of the municipal treasury on certificate of the Building Official/Code Enforcement Officer. Such costs shall be charged against the land on which the building existed, as a municipal lien, or shall be added to the tax roll as an assessment or shall be levied as a special tax against the land upon which the building stands or stood or shall be recovered in a suit at law against the owner.

B. The owner of a property declared abandoned may petition the Building Department to remove the certification of abandonment by providing proof to the Building Official/Code Enforcement Officer that the basis for the certificate of abandonment no longer exists and the owner is in compliance with this chapter.

Section 179-8. Insurance

The owner or mortgage of any abandoned or vacant property shall acquire or otherwise maintain liability insurance in the amount of not less than \$300,000 for buildings designated primarily for a one-to-two unit residential use and not less than \$1,000,000 for any other building including but not limited to buildings designated for multifamily, manufacturing, storage or commercial uses covering any damage to any person or any property caused by any physical condition of or in the building. The City of Kingston shall be named as an additional insured and shall be entitled to notification of any renewal or lapse of coverage in writing of said policy. The owner and/or mortgagee shall attach evidence of insurance to the registration statement required by this chapter. Failure to attach the insurance statement to the registration form submitted to the City shall cause the registration form to be invalid. The alternative to insurance, the owner and/or mortgagee must supply a cash bond acceptable in form to the Building Official/Code Enforcement Officer of the City of Kingston in a sum of \$10,000 to secure the continued maintenance of the property throughout its abandoned or vacant state and to remunerate the City of Kingston for any expenses incurred in inspecting, securing, marketing or making such building safe.

Section 179.9 Registry

A.

The City of Kingston shall establish an online registry of all properties registered with the City under this chapter and shall include a procedure by which citizens can provide the building Official/Code Enforcement through electronic means with information on unregistered properties that may be subject to this chapter.

B.

New owners shall register or re-register the abandoned or vacant building or properties with the Building Official/Code Enforcement Officer within 30 days of any transfer of ownership interest in the abandoned or vacant building or property whether or not the deed to said property has been recorded with the Ulster County Clerk.

C.

Failure or refusal of Owner to register a property does not preclude the property from the Registry. The Certificate of Abandonment shall be used as the means to add the said property to the Registry making all requirements set forth in this section 179 enforceable.

Section 179.10. Fees

A.

The owner/mortgagee of an abandoned building or property shall pay an annual fee of \$1200 for the first year the building remains vacant or abandoned or any portion of said year. The fee shall cover the administrative costs for registering and processing the abandoned building or property and the cost for the City in monitoring the abandoned property or building. The fee shall be paid upon filing of the registration form as required by this chapter.

Failure to pay fee shall result in said fee to be charged against the land on which the building existed, as a municipal lien, or shall be added to the tax roll as an assessment or shall be levied as a special tax against the land upon which the building stands or stood or shall be recovered in a suit at law against the owner.

The owner/mortgagee of a vacant and/or abandoned building or property shall pay an annual fee of \$1200 for the second year the building remains abandoned and/or vacant. The fee shall cover the administrative costs for registering and processing the vacant or abandoned building or property and the cost for the City in monitoring the abandoned or vacant property or building. The fee shall be paid upon filing of the registration form as required by this chapter.

Failure to pay fee shall result in said fee to be charged against the land on which the building existed, as a municipal lien, or shall be added to the tax roll as an assessment or shall be levied as a special tax against the land upon which the building stands or stood or shall be recovered in a suit at law against the owner.

Subsequent annual fees shall be:

(1)

For the third year the building remains vacant or abandoned: \$1,200.

(2)

For the fourth year the building remains vacant or abandoned: \$1,200.

(3)

For the fifth year the building remains vacant or abandoned: \$5,200.

(4)

For the sixth year the building remains vacant or abandoned: \$6,200.

(5)

For the seventh year the building remains vacant or abandoned: \$7,200.

(6)

For the eighth year the building remains vacant or abandoned: \$8,200.

(7)

For the ninth year the building remains vacant or abandoned: \$9,200.

(8)

For the tenth year the building remains vacant or abandoned: \$10,200.

B.

For ownership interest in any vacant or abandoned property whether or not the deed has been recorded with the Ulster County Clerk. The owners shall be responsible for any unpaid fees.

Section 179-11. Exceptions

A.

Any building exempted from registration pursuant to the provisions of the New York State Real Property Actions and Procedures Law or other controlling Federal or New York State law.

B.

A building which has been vacant for longer than one year, but less than two years, may request waiver of the fees set forth above upon submission of satisfactory proof of reasonable attempts to secure appropriate occupants or tenants for the building. The decision regarding said waiver shall rest in the discretion of the Deputy Chief of the Building Safety Division of the Kingston Fire Department and may be appealed in writing within thirty days to the Mayor of the City of Kingston.

C.

A building or property which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 180 days after the date of the fire or extreme weather event if the property owner/mortgage submits a request for exemption in writing to the Deputy Chief of the Building Safety Division of the Kingston Fire Department. This request shall include a description of the property; the names and addressess of the owner and/or mortgagee; a statement of intent to repair and re-occupy the Building in an expedient manner or intent to demolish the building.

D.

Additional exceptions to this statute shall be if in the sole and reasonable discretion of the Deputy Chief of the Building Safety Division of the Kingston Fire Department the property is subject to any one or more of the following:

(1)

A valid open building permit being pursued with diligence, not to exceed 12 months from the time the property became vacant or abandoned;

(2)

A pending land use application including site plan, subdivision or special permit application being pursued with diligence, not to exceed 12 months from the time the property became vacant or abandoned;

(3)

A pending application to a governmental body being pursued with diligence for an approval pertaining to the physical improvement of the property, not to exceed 12 months from the time the property became vacant or abandoned;

(4)

Utilization of the building by the City of Kingston on a temporary basis not to exceed 12 months for City purposes including but not limited to fire training;

(5)

Current owner occupier who is absent from the property while receiving health related care As an inpatient of a residential health care facility not to exceed 12 months.

E.

The discretionary decision of the Building Official/Code Enforcement Officer as provided in (A) (B) and (C) above may be appealed by the property owner/mortgagee in writing within thirty days, to the Mayor of the City of Kingston.

Section 179-12. Penalties for Offenses

If an owner and/or mortgagee shall violate any portion of this chapter, they shall be subject to a fine of not more than \$500 or 30 days in jail, or both, with the understanding that each day a violation continues shall be deemed a separate offense.

SECTION-2. That the invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION-3. This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Submitted to the Mayor this ____ day

Approved by the Mayor this ____ day

Of _____, 2016

of _____, 2016

Carly Winnie, City Clerk

Steven T. Noble, Mayor

Adopted by Council on _____, 2016